

§ 724.118 Documentary discharge review.

A formal session of the NDRB convened for the purpose of reviewing, on the basis of documentary data, an applicant's discharge. The Documentary data shall include the application together with all information accompanying that application, available service and medical records, and any other information considered relevant by the NDRB.

§ 724.119 Personal appearance discharge review.

A formal session of the NDRB convened for the purpose of reviewing an applicant's discharge on the basis of a personal appearance, as well as documentary data. The personal appearance may be by the applicant or by a representative of the applicant, or both.

§ 724.120 National Capital Region (NCR).

The District of Columbia; Prince Georges and Montgomery Counties in Maryland; Arlington, Fairfax, Loudoun, and Prince William Counties in Virginia; and all cities and towns included within the outer boundaries of the foregoing counties.

§ 724.121 Decisional document.

The written recordation of the applicant's summary of service, the issue or issues presented together with any evidence offered in support of the application, the NDRB's response to the issue or issues, the votes of the members of the panel, and any recommendations or responses by the President of the NDRB or the Secretarial Reviewing Authority (SRA). The decisional document is promulgated by the "en bloc letter".

§ 724.122 Recorder, NDRB Panel.

A panel member responsible for briefing an applicant's case from the documentary evidence available prior to a discharge review, presenting the brief to the panel considering the application, performing other designated functions during personal appearance discharge hearings, and drafting the decisional document subsequent to the hearing.

§ 724.123 Complainant.

A former member of the Armed Forces (or the former member's counsel) who submits a complaint under 32 CFR Part 70 with respect to the decisional document issued in the former member's own case; or a former member of the Armed Forces (or the former member's counsel) who submits a complaint under reference (b) stating that correction of the decisional document will assist the former member in preparing for an administrative or judicial proceeding in which the former member's own discharge will be at issue.

Subpart B—Authority/Policy for Departmental Discharge Review**§ 724.201 Authority.**

The Naval Discharge Review Board, established pursuant to 10 U.S.C. 1553, is a component of the Naval Council of Personnel Boards. By SECNAVINST 5430.7L, the Assistant Secretary of the Navy (Manpower and Reserve Affairs) is authorized and directed to act for the Secretary of the Navy within his assigned area of responsibility and exercises oversight over the Naval Council of Personnel Boards. SECNAVINST 5420.135C of July 15, 1983 states the organization, mission, duties and responsibilities of the Naval Council of Personnel Boards to include the Naval Discharge Review Board. The Chief of Naval Operations established the Office of Naval Disability Evaluation and Navy Council of Personnel Boards on 1 October 1976 (OPNAVNOTE 5450 Ser 09B26/535376 of 9 Sep 1976 (Canc frp: Apr 77)). The Chief of Naval Operations approved the change in name of the Office of Naval Disability Evaluation and Navy Council of Personnel Boards to Naval Council of Personnel Boards on 1 February 1977 (OPNAVNOTE 5450 Ser 09B26/32648 of 24 Jan 1977 (Canc frp: Jul 77)) with the following mission statement:

To administer and supervise assigned boards and councils.

§ 724.202 Statutory/Directive Authority.

The NDRB, in its conduct of discharge review, shall be guided by the

applicable statutes, regulations, and manuals and directives of the Department of the Navy, and other written public expressions of policy by competent authority:

(a) 10 U.S.C. 1553, Review of discharge or dismissal:

(1) "The Secretary concerned shall, after consulting the Administrator of Veterans' Affairs, establish a board of review, consisting of five members, to review the discharge or dismissal (other than a discharge or dismissal by sentence of a general court-martial) of any former member of an armed force under the jurisdiction of his department upon its own motion or upon the request of the former member or, if he is dead, his surviving spouse, next of kin, or legal representative. A motion or request for review must be made within 15 years after the date of the discharge or dismissal."

(2) A board established under this section may, subject to review by the Secretary concerned, change a discharge or dismissal, or issue a new discharge, to reflect its findings.

(3) A review by the board established under this section shall be based on the records of the armed forces concerned and such other evidence as may be presented to the board. A witness may present evidence to the board in person or by affidavit. A person who requests a review under this section may appear before the board in person or by counsel or an accredited representative or an organization recognized by the Administrator of Veterans' Affairs under title 38 U.S.C. 3401 *et seq.*"

(b) *Pub. L. 95-126*. See appendix D.

(c) 32 CFR part 70. This provides for uniform standards and procedures for review of discharges from the military services of the Department of Defense. The provisions of 32 CFR part 70 are incorporated in this Manual.

(d) *The Secretary of Defense memorandum dated August 13, 1971 and April 28, 1972 (NOTAL)*. These directed a review for recharacterization of (1) administrative discharges under other than honorable conditions issued solely on the basis of personal use of drugs or possession of drugs for the purpose of such use, and (2) punitive discharges and dismissals issued solely for conviction of personal use of drugs and pos-

session for the purpose of such use for those discharges executed as a result of a case completed or in process on or before July 7, 1971. (See appendix B).

(e) 32 CFR part 41. This prescribes policy, standards and procedures which govern the administrative separation of enlisted persons from the Armed Forces.

§ 724.203 Broad objectives of naval discharge review.

Naval discharge review shall have as its broad objectives:

(a) The furtherance of good order and discipline.

(b) The correction of injustice or inequity in the discharge issued.

(c) The correction of administrative or clerical errors.

§ 724.204 Eligibility for naval discharge review.

Any former member of the Naval Service, eligible for review under reference (a) or surviving spouse, next of kin or legal representative, shall upon submission of an application be afforded a review of the member's discharge from the Naval Service as provided in §§ 724.205 and 724.206. Discharge review may also be initiated on the motion of the NDRB (See § 724.220).

§ 724.205 Authority for review of naval discharges; jurisdictional limitations.

(a) The Board shall have no authority to:

(1) Review a discharge or dismissal resulting from a general court-martial;

(2) Alter the judgment of a court-martial, except the discharge or dismissal awarded may be changed for purposes of clemency;

(3) Revoke any discharge or dismissal;

(4) Reinstate a person in the naval service;

(5) Recall a former member to active duty;

(6) Change a reenlistment code;

(7) Make recommendations for reenlistment to permit entry in the naval service or any other branch of the Armed Forces;

(8) Cancel or void enlistment contracts; or